

**TROY LAW, PLLC**

ATTORNEYS / COUNSELORS AT LAW

Tel: (718) 762-1324 troylaw@troypllc.com Fax: (718) 762-1342

41-25 Kissena Boulevard, Suite 119, Flushing, NY 11355

June 12, 2018

**Via ECF**

Hon. Joanna Seybert, U.S.D.J.  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

**Re: Status Letter**

2:17-cv-02759-JS-AKT *Wu v. Amazon.com, Inc. et al*

Dear Hon. Seybert:

This office represents the plaintiffs in the above-captioned matter. We write respectfully, to report on the status of this matter and to suggest a schedule going forward. We have attempted to write jointly with Defendants; however due to disagreements in both sides, Defense Counsel Alan T. Gallanty suggested that it would be better if this letter is filed separately. The crux of the disagreement, as can be seen from Mr. Gallanty's letter, is that Mr. Gallanty considers the two motions to compel arbitration—one filed by SOS Logistics, LLC, Michael Lavelle, and Robert Doe and one filed by Amazon.com, Inc.—“fully-briefed.” We disagree, as laid out more fully below, and request that the Court schedule time to fully brief both motions.

Defendants SOS Logistics, LLC, Michael Lavelle, and Robert Doe (the “SOS Defendants”) are represented by Alan T. Gallanty. Defendant Amazon.com, Inc. (“Amazon”) is represented by Jason D. Burns. Defendants Speed of Sound Courier Express, Inc. and Christopher J. Kane are not represented.

On July 6, 2017, the SOS Defendants moved to compel the arbitration of Plaintiffs John Wu and Gianni Tabacchino's claims against them. In support of their motion, the SOS Defendants produced arbitration agreements bearing the hand-printed names of John Wu and Gianni Tabacchino. John Wu's agreement was dated June 3, 2016. Gianni Tabacchino's agreement was not dated, but according to the affidavit of Robert McIntyre in support of the SOS Defendants' motion, was executed on June 2, 2016.

On July 20, 2017, Plaintiffs opposed the SOS Defendants' motion on two principal grounds. First, Plaintiffs objected to the cost-sharing provision of the arbitration agreements as prohibitively expensive. Second, Plaintiffs asked the Court to stay the proceeding pending the outcome of the Supreme Court cases consolidated as *Epic Systems Corp. v. Lewis*.

On August 4, 2017, Amazon likewise moved to compel arbitration of Plaintiffs' claims against them. Amazon presented no arbitration agreement between itself and the Plaintiffs, but argue that because Plaintiffs claimed that Amazon and SOS were joint employers, Amazon should be protected by SOS's arbitration agreements. Amazon then argued that Plaintiffs were obligated to arbitrate their claims against SOS on substantially the same grounds that SOS used in its own

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motion. Finally, Amazon argued that if the Court denied Amazon's motion, Plaintiffs' action against Amazon should be stayed pending the result of arbitration against SOS.

On January 5, 2018, the Court stayed this matter pending the Supreme Court's decision in *Epic Systems Corp.* Since August 4, 2017, Plaintiffs and the SOS Defendants have engaged in settlement discussions, but have not reached a settlement.

For the foregoing reasons, Plaintiffs propose the following:

- Plaintiffs to oppose Amazon's motion to compel arbitration by July 5, 2018;
- SOS Defendants to reply to Plaintiffs' opposition to SOS Defendants' motion to compel arbitration by July 12, 2018;
- Amazon to reply to Plaintiffs' opposition to Amazon's motion to compel arbitration by July 12, 2018;
- SOS Defendants' motion to compel arbitration and Amazon's motion to compel arbitration both returnable by July 26, 2018.

We thank the Court for its attention to and consideration of this matter.

Respectfully submitted,  
TROY LAW, PLLC

/s/ John Troy

John Troy

*Attorney for Plaintiffs*

cc: via ECF  
all counsel of record